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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/816,043   | 04/02/2004  | Frederick Bleckmann  | 724917-000018 C3    | 9622             |
| 22204  | 7590        | 05/18/2005           | EXAMINER            |                  |
| NIXON PEABODY, LLP<br>401 9TH STREET, NW<br>SUITE 900<br>WASHINGTON, DC 20004-2128 |             |                      | SELLS, JAMES D      |                  |
|  |             |                      | ART UNIT            | PAPER NUMBER     |
|  |             |                      | 1734                |                  |

DATE MAILED: 05/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/816,043

Applicant(s)

BLECKMANN ET AL.

Examiner

James Sells

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on 23 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zurmuehl et al (DE 26 24 055) in view of Dolling et al (US Patent 5,932,041) in further view of Loemker et al (US Patent 5,583,489).

Zurmuehl discloses a method and apparatus for producing labels. As shown in Fig. 3, the system comprises roll 4' of strip material 3 which is fed to folding station 8. Folding station 8 folds the strip along the centerline and heated press 31 presses the folded strip. Next, the strip travels through perforator 12, past photocell 14 of scanning station 9, and feed system 10 before individual labels are cut at heat-cutting station 15.

However, Zurmuehl does not disclose ultrasonically subdividing the ribbon in the manner claimed by the applicant. Regarding this difference, the applicant is directed to the reference of Dolling et al.

Dolling discloses a method and apparatus for ultrasonically cutting sheets and textile webs. As shown in Figs. 1-2, the system comprises ultrasonic sonotrode 5 that cooperates with separator anvil wheel 3 to cut web 1. It would have been obvious to one having ordinary skill in the art to ultrasonically separate or cut the materials, as taught by Dolling, in the method and apparatus of Zurmuehl as a matter of design

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choice because ultrasonic cutters and heat cutters are functionally equivalent alternate expedients in the art.

However, Zurmuehl does not disclose the anti-theft devices as claimed by the applicant. Regarding this difference, the applicant is directed to the reference of Loemker et al.

Loemker discloses a fabric security label for garments. This security label incorporates a security or anti-theft device 18, which is attached to, labels 10 by heat sealing. Such a label construction reduces theft of garments incorporating the security label. For this reason, it would have been obvious to one having ordinary skill in the art to incorporate an anti-theft device, as taught by Loemker, in the method and apparatus of Zurmuehl as described above. In addition, it is the examiner's position heat sealing and adhesive bonding are functionally equivalent alternate expedients in the art. Therefore it would have been obvious to one having ordinary skill in the art to substitute adhesive, bonding for the heat sealing disclosed by Loemker.

3. Claims 1 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zurmuehl et al (DE 26 24 055) in view of Dolling et al (US Patent 5,932,041) in further view of Clare (US Patent 5,745,036).

Zurmuehl discloses a method and apparatus for producing labels. As shown in Fig. 3, the system comprises roll 4' of strip material 3 which is fed to folding station 8. Folding station 8 folds the strip along the centerline and heated press 31 presses the

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folded strip. Next, the strip travels through perforator 12, past photocell 14 of scanning station 9, and feed system 10 before individual labels are cut at heat-cutting station 15.

However, Zurmuehl does not disclose ultrasonically subdividing the ribbon in the manner claimed by the applicant. Regarding this difference, the applicant is directed to the reference of Dolling et al.

Dolling discloses a method and apparatus for ultrasonically cutting sheets and textile webs. As shown in Figs. 1-2, the system comprises ultrasonic sonotrode 5 that cooperates with separator anvil wheel 3 to cut web 1. It would have been obvious to one having ordinary skill in the art to ultrasonically separate or cut the materials, as taught by Dolling, in the method and apparatus of Zurmuehl as a matter of design choice because ultrasonic cutters and heat cutters are functionally equivalent alternate expedients in the art.

However, Zurmuehl does not disclose the RF inventory devices as claimed by the applicant. Regarding this difference, the applicant is directed to the reference of Clare.

Clare discloses an electronic article security system. In this system individual article are provided with a radio frequency security tag 22. When the tag is detected at a point of sale system 18, the information is sent to the store headquarters 17 for inventory management (see col. 3, lines 47-65). Such a tag system provides the advantage of automatically controlling inventory. For this reason, it would have been obvious to one having ordinary skill in the art to incorporate an RF inventory device, as taught by Clare, in the method and apparatus of Zurmuehl as described above. In

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addition, it is the examiner's position that it would have been obvious to employ an adhesive to bond the RF inventory device to the securely attach the device to a label.

### ***Response to Arguments***

4. Applicant's arguments with respect to claims 1-2 and 4 have been considered but are moot in view of the new ground(s) of rejection.

### ***Telephone/Fax***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Sells whose telephone number is (571) 272-1237. The examiner can normally be reached on Monday-Friday between 9:30 AM and 6:00 PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Fiorilla can be reached at (571) 272-1187. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

### ***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.



**JAMES SELLS**  
**PRIMARY EXAMINER**  
**TECH. CENTER 1700**